



MEMORANDUM

To: PLANNING COMMISSION **Date: December 12, 2006**
From: COMMUNITY DEVELOPMENT DEPARTMENT
Subject: Conditional Use Permit Amendment Application, UPA-95-01: W Third-Cingular

REQUEST

The applicant is requesting a conditional use permit amendment (UPA-95-01) to provide cellular services by installing two panel antennas on an existing monopole, installation of a new monopole with one panel antenna, and the installation of an equipment area enclosed by security fencing.

RECOMMENDATION

Environmental Assessment: This action is categorically exempt from further environmental assessment under section 15303 of the California Environmental Quality Act.

UPA-95-01 W Third-Cingular: Approve the Use Permit Amendment for application UPA-95-01: W Third-Cingular

Processing Deadline: January 3, 2007

SITE DESCRIPTION

Location: West Third Street (APN 767-08-008)
Size: 2.16 acres (approximate)
Existing Zoning: RE-100,000
Existing Uses: Water Tank, Cellular Equipment Facilities, Utilities

CASE ANALYSIS

The applicant is seeking approval for a conditional use permit (CUP) amendment to install equipment for the purposes of providing cellular communication services. The subject site is owned by the City of Morgan Hill (the City has a contract with Crown Castle to manage the property). The site is generally referred to as "Nob Hill" and is the location of the Nob Hill

water tank. A previous CUP and CUP Amendment were approved by the Planning Commission, the most recent on June 13, 2000. The existing structures on the site includes: the aforementioned water tank; Verizon (formerly GTE Mobilnet) equipment area and 40ft monopole with two panel antennas; a microwave pole measuring 10ft (the current use of this equipment is under investigation and shall be required to be removed if abandoned); two other panel antennas on an approximately 40ft monopole (the current use of this equipment is under investigation and shall be required to be removed if abandoned); and public utilities.

The applicant is proposing to co-locate two panel antennas on an existing monopole. The top of antennas will be at a height of approximately 27.5ft, however, the existing pole height is approximately 40ft. A new monopole with a single panel antenna, approximately 19.5ft in height is proposed (due to topography differences, the natural grade is approximately 2ft lower than the existing 40ft monopole). An approximately 303ft² equipment area is proposed adjacent to the existing equipment cabinet area for Verizon, which will be enclosed by fencing to match the existing fence (approximately 8ft in height). Two equipment cabinets are currently being proposed with space for an additional three cabinets. The proposed equipment locations are consistent with lease and property use areas previously identified for use ("Exclusive Installation and Property Use Agreement Between the City of Morgan Hill and Crown Castle GT Company LLC").

USE PERMIT FINDINGS

The required findings for a Conditional Use Permit are contained in Section 18.54.050(B) of the Municipal Code and read as follows:

- A. The site is suitable and adequate for the proposed use.**
- B. The proposed use and design would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system.**
- C. The proposed use at the location will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to public health, safety or general welfare.**
- D. The design of the project is compatible with existing and proposed development within the district and its surroundings.**

Site Suitability:

The existing site is currently being utilized by the Nob Hill Water Tank, approved communications facilities, and other public infrastructure. Surrounding properties are residential, with the closest residence approximately 250ft from where the proposed equipment will be installed. Given the existing uses on-site, the site is suitable for the proposed use.

Circulation:

Access to the site will be provided via West Third St. The use will be unmanned. A technician may visit the site once a month for routine maintenance. The proposed use would not have a substantial adverse effect on traffic circulation or on the planned capacity of the street system.

General Welfare:

The proposed use would not have an affect on the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to the public health, safety or general welfare.

A Radio Frequency (RF) report has been completed (see attachments). The RF report determined that the maximum calculated cumulative RF exposure level at ground for the simultaneous operation of the carriers is 18% of the applicable public limit; and the maximum calculated level at the second-floor elevation of any nearby building is 1.7% of the public exposure limit (located at least 210ft away).

An RF report will be required after the use of the proposed equipment commences. The RF report will evaluate the cumulative exposure of all equipment in use.

Design:

Based on the natural and existing conditions on-site and proposed recommendations, there are minor visual impacts. When looking from the north, existing vegetation including oak and other types of trees provide natural screening of the existing and proposed equipment. The existing water tank, which is approximately 43ft in height acts as a backdrop to further screen equipment silhouettes against the sky. Staff has proposed a condition requiring the painting of all proposed equipment installed on the site to match the existing equipment or to match the predominant color of the vegetation in order to reduce the visual impacts. In addition, visual inspection of the site revealed that there are some visual impacts due to breaks in the tree canopy. Staff members including the property manager for the City and the Public Works Maintenance Supervisor inspected the site and have recommended the plantings of five 5-gallon Toyon shrubs to be planted in front of the base of the new monopole.

When looking from the south, the new equipment will not have appreciable visual impacts. The majority of the new proposed equipment is either screened or is in front of existing equipment. In addition, Crown Castle, who is managing the property for the City, has agreed to plant seven 15-gallon Coast Live Oaks along the access driveway for replacement of trees committed by previous use entitlements that did not survive. While this tree planting is not a proposed condition of approval, these trees will provide further screening.

RECOMMENDATION

Staff recommends approval of the conditional use permit amendment subject to the findings and conditions contained in the attached Resolution.

ATTACHMENTS

Attachment 1: Resolution
Attachment 2: Photos
Attachment 3: Statement of Proposed Operations
Attachment 4: Vicinity Map
Attachment 5: Site Plans

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL APPROVING AN
AMENDMENT TO A CONDITIONAL USE PERMIT TO
ALLOW ADDITIONAL EQUIPMENT TO BE INSTALLED
FOR CINGULAR WIRELESS SERVICES. (APN 767-08-008)**

WHEREAS, such request was considered by the Planning Commission at their regular meeting of December 12, 2006, at which time the Planning Commission approved application UPA-95-01: W Third-Cingular; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The project is categorically exempt from CEQA under Section 15303, New Construction or Conversion of Small Structures.

SECTION 3. The approved conditional use has been found consistent with the criteria for use permit approval contained in Section 18.54.050 of the Zoning Code.

SECTION 4. The approved use permit amendment is limited to the installation of two panel antennas on an existing monopole, installation of a new monopole with one panel antenna, and the installation of an equipment area enclosed by security fencing as shown in that certain series of documents submitted by Cingular dated November 3, 2006 (date of receipt) on file in the Planning Division.

SECTION 5. The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as exhibit "A", and by this reference incorporated herein.

**PASSED AND ADOPTED THIS 12TH DAY OF DECEMBER, 2006, AT A REGULAR
MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

AFFIDAVIT

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

_____, Applicant

Date: _____

EXHIBIT A

1. The Conditional Use Permit approval granted under this Resolution shall remain in effect for twelve (12) months to November 14, 2007. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date. (MHMC 18.54.070 A)
2. The Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions. (MHMC 18.54.090)
3. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this conditional use permit. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.
4. Submit two (2) signed copies of Resolution No. _____ to the Planning Division prior to issuance of building permits.
5. Five 5-gallon Toyon shrubs shall be planted in a mesh pattern (not in a row) in front of the base (along the north side) of the new monopole. The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements (Planning)
6. Submit minimum six (6) complete sets of working drawings and specifications. Building plans shall be drawn at a minimum 1/4" scale. Minimum sheet size shall be 18" x 24". Submit minimum six (6) complete sets of drawings for all commercial and or industrial buildings. (UBC 106.3.3)
7. Permits for new structures or additions to existing structures will require the installation of fire sprinklers for any enclosed structures. (MHMC 15.08.070)
8. Plans must be designed for Seismic Zone 4 and wind loads of 15 P.S.I. & Exposure "C" (Building)

9. Applicant must provide for proposed conduit prior to issuance of building permit. (PW)
10. Plans must be fully satisfied and approved by Public Works prior to issuance of building permit.
11. Provide correct location of the door for the Verizon compound. If shared access will be used, provide access agreement letter from Verizon. (PW)
12. The proposed antennas, monopole and equipment shelters and fencing (including fence posts) shall be painted to match the color of the water tank or painted colors that blend into the surrounding vegetation. Submit color samples with building permit application. (Planning)
13. Equipment owner must remove the equipment (or will be financially responsible) if the site is abandoned or replaced with newer equipment. (Planning)
14. Following the commencement of operations, field test shall be conducted to ensure radio frequency electromagnetic field exposure do not exceed Federal guidelines. The results of the test shall be submitted to the Morgan Hill Planning Division. (Planning)
15. RF warning signs in English and Spanish shall be posted around the equipment cabinets and base of the monopole. (Planning)
16. There shall be a joint use of the facility with emergency services of the City of Morgan Hill and to allow for the co-location for at least one additional commercial telecommunications provider dependent upon technological feasibility. (Planning)
17. Prior to the issuance of the building permit a report shall be submitted to the Community Development Department from a professional arborist to evaluate the condition of any trees affected by all construction activities, and recommend appropriate written specifications which will preserve such trees during and after construction. An arborist will be required to be present during ground disturbing activities to verify conditions are being met. (Planning)

ATTACHMENT 2

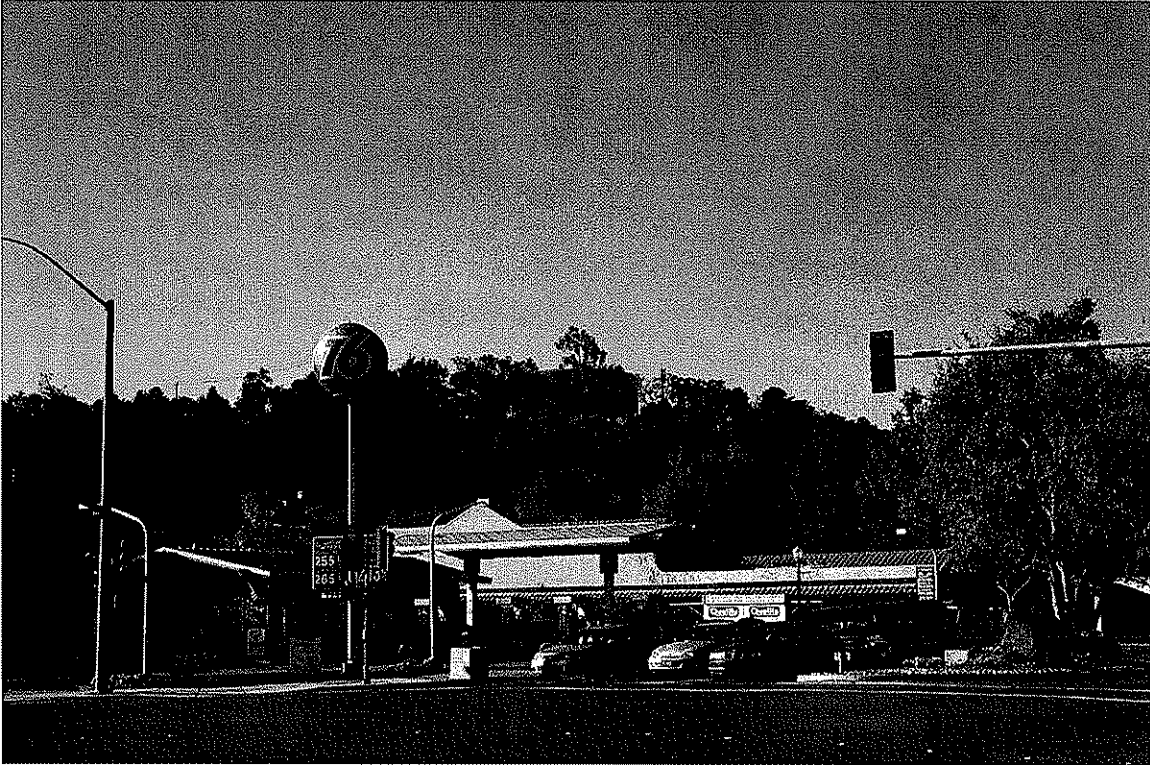


Photo 1. View of Nob Hill looking north (W. Dunne and Monterey)



Photo 2. View looking west

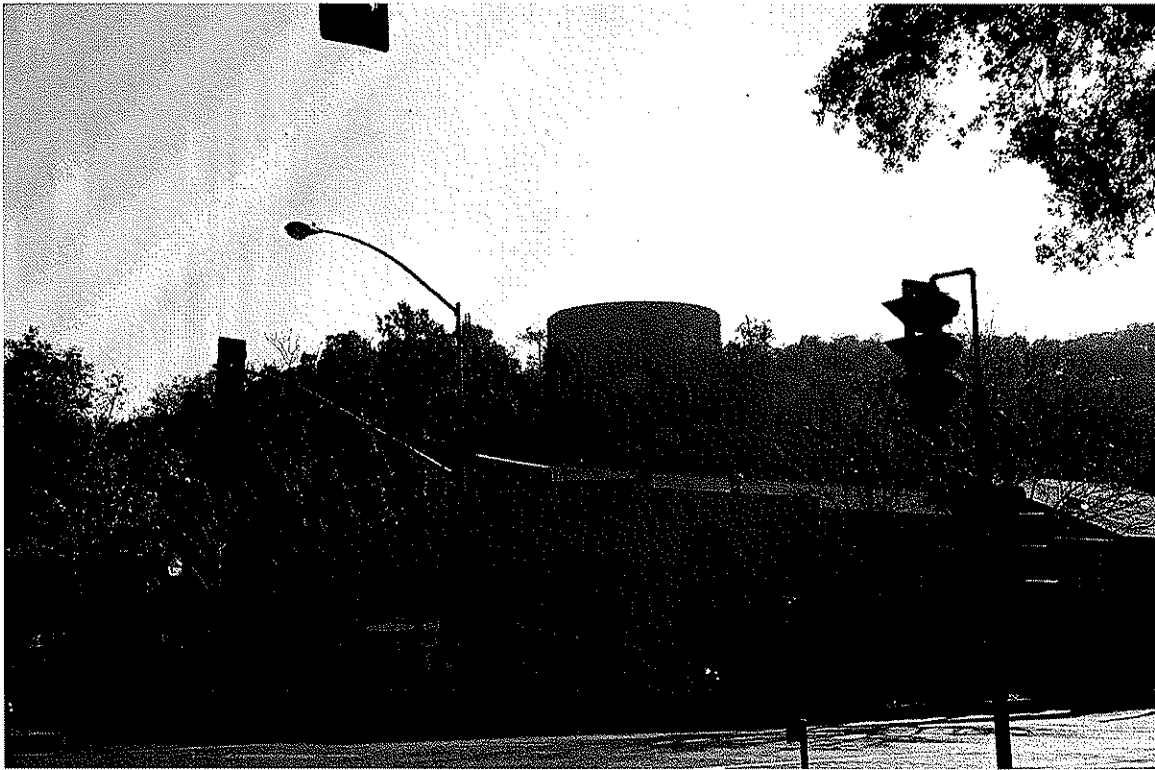


Photo 3. View looking southwest (2nd ST and Monterey Rd)



Photo 4. View looking south (2nd ST and Del Monte Ave)

Attachment 3

F. STATEMENT OF PROPOSED OPERATIONS

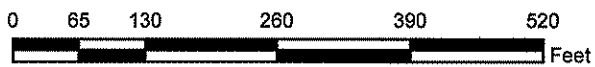
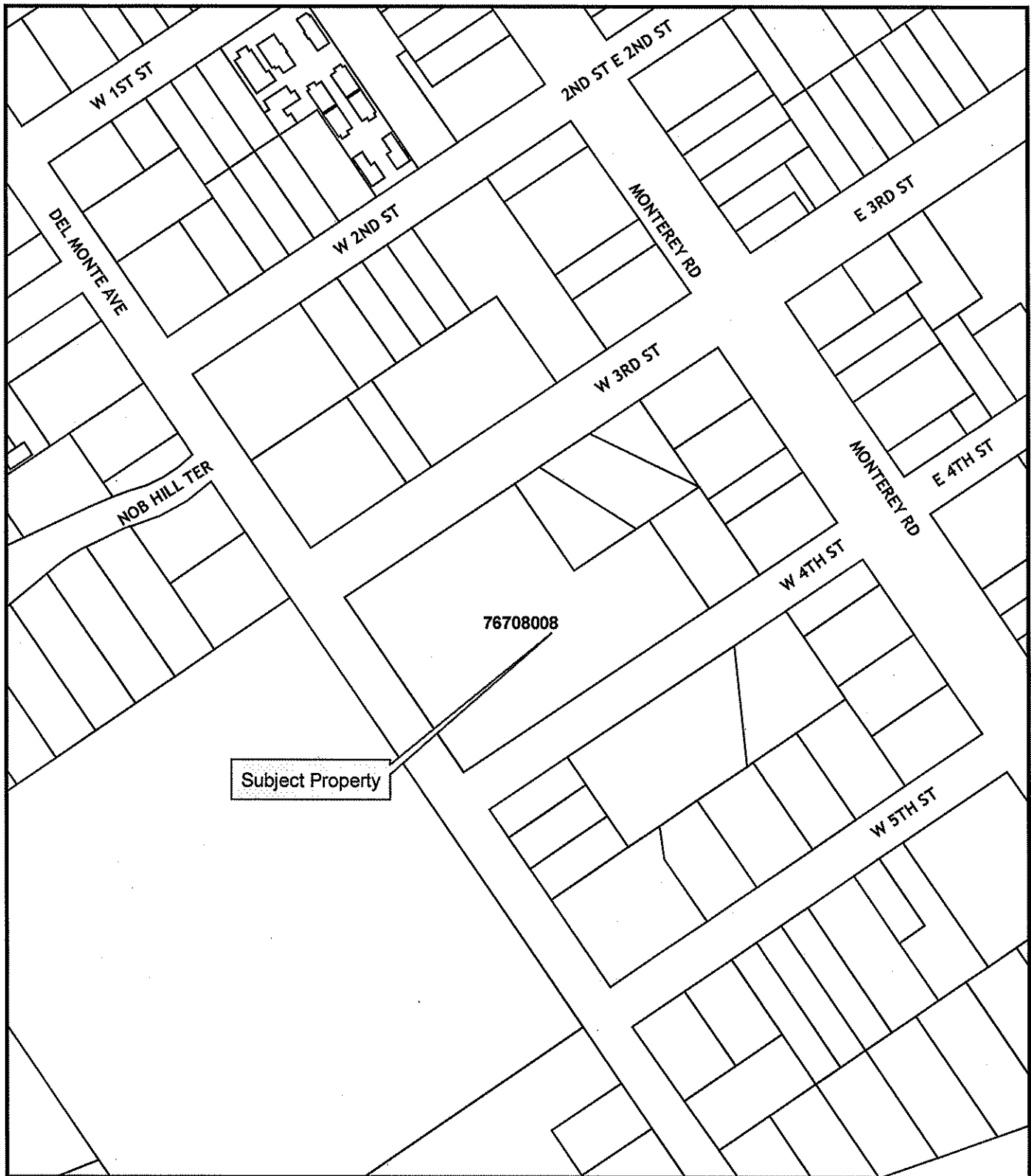
Provide a written statement outlining the request for a Conditional Use Permit. The statement must give a detailed description of the proposed use and shall include, but not be limited to:

- Hours and days of operation. *24 hours a day, 7 days a week*
- Number of employees. *One technician to visit the site once per month for maintenance.*
- Number of average daily trips generated. *No daily trips proposed beyond initial 30 day construction period.*
- Type of equipment or processes used. *Unmanned wireless telecommunications facility standard equipment.*
- Use of hazardous materials. *None proposed.*

- Other information which effectively describes the proposed use

An unmanned telecommunications facility, work includes installing two panel antennas on an existing 40ft monopole (Verizon); construction of a new 17ft monopole with one panel antenna; construction of a new equipment area enclosed by a security fence to match existing fence.

(Updated Jan 4, 2006 version by Planning Division to reflect changes to the site plan)



UPA-95-01: W Third - Cingular

Vicinity Map

